

REMARKS

In view of the above amendments and following remarks, reconsideration and further examination are requested.

A replacement formal drawing for Figure 4 has been provided herewith under a separate cover sheet. Replacement Figure 4 differs from Figure 4 as filed by identifying a first portion (11), a second portion (12) and third portion (16) of flange (20), and also identifying a first portion (13) and second portion (14) of lid (3). Also, the lead line of reference numeral "3" has been changed to correctly identify the lid.

The substitute specification has been amended so as to correspond with new Figure 4. No new matter has been added by this amended portion of the substitute specification.

The courtesies extended by Examiner Merek during the interview conducted on February 19, 2004, are greatly appreciated.

During the interview, Applicants' undersigned representative presented a proposed amendment to claim 26, which deleted therefrom the language that was found to constitute new matter while also further defining what is intended by the term "rounded distal end". Applicants' undersigned representative also explained why it would not have been obvious to modify either Zimmer or Zeman by providing the container bodies thereof with a rounded distal end or rounded bottom.

Specifically, with regard to Zimmer, as expressed in column 3, lines 44-56 of this reference, it is stated that the bottom 28 of the cup 12 is to be planar so as to provide support for the cup on a planar surface 32. Accordingly, to have modified Zimmer by having the bottom of the cup 12 be rounded, the stable support of the cup as sought by Zimmer would be eliminated, such that one would not have found it obvious to provide the cup 12 with a rounded bottom.

With regard to Zeman, it was explained that because Zeman pertains to a flower pot, whereas Hicks, i.e. the reference showing a rounded bottom, corresponds to a paper cup, there would have been no motivation or suggestion to have modified Zeman by having the bottom thereof be rounded.

Examiner Merek was not persuaded by this amendment or arguments, and expressed that the rejection of claim 26 relying on Zeman and Zimmer would be maintained.

Examiner Merek then suggested features of the instant invention that would probably define around the references of record, if these features were properly claimed. Specifically, Examiner Merek expressed that the construction of the flange at the upper end of the container body 2 as shown in Figure 4 appears to not be taught or suggested by any of the references relied upon, such that were this flange to be properly claimed the current combinations of references to reject claim 26 would no longer be applied.

Accordingly, by the instant amendment claims 26 and 27 have been amended and claims 40-45 have been added. Claim 26 has been amended to specifically recite the construction of the flange discussed during the interview, which construction is not believed to be taught or suggested by any of the references relied upon. Claim 27 has been amended to recite how the lid cooperates with the flange. New claims 40 and 41 recite an additional feature of the flange which is not believed to be taught or suggested by the references relied upon. New claim 42 recites grooves that are in the side wall of the container body 2, which grooves Examiner Merek also indicated appear to not be shown by the references relied upon. And, new claims 43-45 depend from new claims 40-42, respectively, and recite the subject matter added by claim 33.

It is respectfully submitted that claim 26 is allowable over the references relied upon by the Examiner, either taken alone or in combination. In this regard, while the flower pot of Zeman appears to show a rim at an upper portion thereof, this rim is not of the construction of the flange as recited in claim 26. Similarly, while the cup 12 of Zimmer has a rim 26 at an open end thereof, this rim 26 is also not of the construction of the flange as recited in claim 26. And, while the container of Sequin also has a rim at an upper end thereof, and a lid attached to this rim, the rim is not of the construction of the flange as recited in claim 26 such that the lid cannot cooperate with this rim as recited in claim 27.

In view of the above amendments and remarks, it is respectfully submitted that the present application is in condition for allowance and an early Notice of Allowance is earnestly solicited.

If after reviewing this Amendment, the Examiner believes that any issues remain which must be resolved before the application can be passed to issue, the Examiner is invited to contact the Applicants' undersigned representative by telephone to resolve such issues.

Respectfully submitted,

Katsuei TANABE et al.

By: 

Joseph M. Gorski

Registration No. 46,500

Attorney for Applicants

JMG/edg
Washington, D.C. 20006-1021
Telephone (202) 721-8200
Facsimile (202) 721-8250
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